

**REPORT OF
THE HIGH LEVEL COMMITTEE**

**(to suggest measures for improved monitoring
of the implementation of Corporate Social
Responsibility policies)**



**Ministry of Corporate Affairs
Government of India
September 2015**

Acknowledgements

The Committee takes this opportunity to thank all the stakeholders who have contributed by way of responses. The Committee has immensely benefited from the inputs provided by the Indian Institute of Corporate Affairs, the Institute of Company Secretaries of India and the Institute of Chartered Accountants of India.

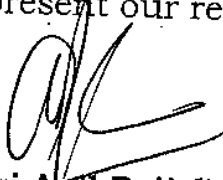
The Committee also acknowledges and places on record the valuable suggestions made by industries chambers namely, Federation of Indian Chambers of Commerce and Industry (FICCI), Associated Chambers of Commerce & Industry of India (ASSOCHAM), Confederation of Indian Industry (CII) and Standing Conference of Public Enterprises (SCOPE), Public Sector Undertakings viz., Oil and Natural Gas Corporation Ltd., Engineers India Ltd, Steel Authority of India Limited, and Bharat Heavy Electricals Ltd., civil society organisations viz., Azim Premji Foundation, Help Age India Foundation, Smile Foundation and Business & Community Foundation and corporates viz., Reliance Industries Ltd, ITC Ltd, Bharti Airtel Ltd, Tata Steel Ltd, Maruti Suzuki India Ltd, Infosys Ltd, Becton Dickinson India Pvt. Ltd and India Exposition Mart Ltd.

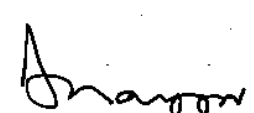
The Committee is grateful to IDFC for providing logistic support and space for the meetings of the Committee at a short notice. We would like to specially thank Shri Amit Bisht and Smt. Renu for their assistance in this regard.

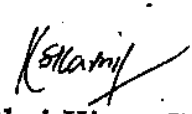
The Committee would like to make a special mention of the dedicated efforts put in by the Ministry of Corporate Affairs team led by Smt. Sibani Swain, Economic Adviser, and comprising Smt. Seema, Director, Smt. Seema Rath, Deputy Director, Shri Sudaveni Satyanarayana, Assistant Director and Shri Vaibhav Rundwal, Assistant Director in putting together the issues and concerns deliberated during several rounds of discussion by the Committee Members and providing technical support.

**REPORT OF THE HIGH LEVEL COMMITTEE TO SUGGEST MEASURES FOR
IMPROVED MONITORING OF THE IMPLEMENTATION OF CORPORATE
SOCIAL RESPONSIBILITY POLICIES**

We, the undersigned, Members of the High Level Committee constituted by the Ministry of Corporate Affairs to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013 hereby present our report.


(Shri Anil Baijal)
Chairman


(Prof. Deepak Nayyar)
Member


(Shri Kiran Karnik)
Member


(Shri Onkar S Kanwar)
Member


(Shri Madhukar Gupta)
Member


(Shri Pritam Singh)
Member Convener

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List of Abbreviations

ASSOCHAM	Associated Chambers of Commerce of India
BHEL	Bharat Heavy Electricals Ltd
BRR	Business Responsibility Report
C&AG	Comptroller and Auditor General of India
CII	Confederation of Indian Industry
COPU	Committee on Public Undertakings
CPSUs	Central Public Sector Undertakings
CSR	Corporate Social Responsibility
DPE	Department of Public Enterprises
EIL	Engineers India Ltd
FICCI	Federation of Indian Chambers of Commerce and Industry
GDP	Gross Domestic Product
HLC	High Level Committee
IAs	Implementing Agencies
ICAI	Institute of Chartered Accountants of India
ICSI	Institute of Company Secretaries of India
IDFC	Industrial Development Finance Corporation
IICA	Indian Institute of Corporate Affairs
MCA	Ministry of Corporate Affairs
MoU	Memorandum of Understanding
MSMEs	Micro Small and Medium Enterprises
NASSCOM	National Association of Software and Services Companies
NGOs	Non-Government Organisations
NVGs	National Voluntary Guidelines
ONGC	Oil and Natural Gas Corporation Ltd
PAT	Profit After Tax
PBT	Profit Before Tax
PMNRF	Prime Minister's National Relief Fund
RTI	Right to Information
SAIL	Steel Authority of India Limited
SCOPE	Standing Conference of Public Enterprises
SLPE	State Level Public Enterprises
SMEs	Small and Medium Enterprises
SRC	Socially Responsible Corporates
ToR	Terms of Reference
WPI	Wholesale Price Index

PREFACE

India is the first and only country in the world to have statutorily mandated Corporate Social Responsibility (CSR) for certain corporate entities, as defined in the Companies Act, 2013. Undoubtedly a unique provision of law, it has given rise to many concerns among the stakeholders. These range from formulation of CSR policies; issues of compliance and disclosures; capacity constraints; optimal utilization of CSR spend for the benefit of the target communities; to effective mechanism for monitoring its implementation by the companies.

It is in this context that the Ministry of Corporate Affairs, Government of India constituted a High Level Committee (HLC), under the Chairmanship of the undersigned, to suggest measures for monitoring the progress of implementation of Corporate Social Responsibility policies. Other Members of the Committee are - Prof. Deepak Nayyar, Professor (Emeritus) in Economics, Jawaharlal Nehru University, Shri Kiran Karnik, Former President - NASSCOM, Shri Onkar S Kanwar Chairman & Managing Director, Apollo Tyres Ltd and Shri Madhukar Gupta, Additional Secretary, Department of Public Enterprises. Shri Pritam Singh, Additional Secretary, Ministry of Corporate Affairs is the Member-Convener of the Committee.

The Committee held widespread consultations with a cross section of stakeholders' viz. corporates, their industry associations, public sector undertakings, civil society organisations and other professional bodies like the Indian Institute of Corporate Affairs, Institute of Company Secretaries and Indian Institute of Chartered Accountants. Valuable inputs were received from them. I thank them all.

Many issues raised during discussions with the stakeholders seemed to be beyond the Terms of Reference of the Committee, but were significant enough to be addressed at this stage. Therefore these have also been considered by the Committee and included in its recommendations.

The year 2014-15 was the first year of implementation of CSR policy. The first ever statutory annual reports on the implementation of CSR are currently being filed by the companies and all information in this regard will be available by the end of this year. The Committee, therefore, did not have the benefit of learning lessons even from this one year's experience of CSR implementation. The Committee has, therefore, recommended that for an in-depth examination of the entire gamut of issues relating to mandatory implementation of CSR provisions, another Committee be set up after about three (3) years of experience in the implementation of this policy.

The Committee did not consider it necessary to provide an Executive Summary because (a) the Report is not voluminous; and (b) to avoid repetition of issues discussed in Chapter III and the Recommendations contained in Chapter IV of the Report.

I place on record my sincere thanks to the Committee Members for not only sparing valuable time from their otherwise hectic schedule of commitments but more importantly for their priceless contribution in discussions, suggestions and drafting of the Report. Working with them has indeed been a pleasure.


(Anil Baijal)

22nd September, 2015

Chapter I

Introduction

1.1 Background:

1.1.1 India has attained the status of one of the fastest growing economies in the world and has officially become a \$2 trillion economy in 2014-15. Its share of global GDP increased from about 1.5% in 2000 to 2.6% in 2014 (from about 4% in 2004 to 6.6% in 2014 in purchasing power parity terms). The internationalization of firms from India is one of the important factors to have marked this transition which has led to a partial transformation of investment cycle in the corporate sector.

1.1.2. Development experience suggests that high growth is often accompanied with widening economic inequality. Inequality has indeed increased. Poverty has been reduced, yet India is home to one-third of the world's poor- those who live on less than \$1.25 a day. While India has taken several strides in achieving socio-economic development goals, it still ranks at 135 out of 186 countries in the UNDP's Human Development Index (2014). On social indicators such as health and education, India ranks lower than other emerging market economies.

1.1.3. In this context, the importance of inclusive growth is now widely recognized as an essential part of India's quest for development. It reiterates our firm commitment to include those sections of the society in the growth process, which had hitherto remained excluded from the mainstream of development. In line with this national endeavor, Corporate Social Responsibility was conceived as an instrument for integrating social, environmental and human development concerns in the entire value chain of corporate business. Ministry of Corporate Affairs had issued "Voluntary Guidelines on Corporate Social Responsibility, 2009" as a first step towards

mainstreaming the concept of Business Responsibilities. This was further refined subsequently, as "National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011".

1.1.4. The National Voluntary Guidelines (NVGs) on Social, Environmental and Economic Responsibilities of Business released by the Ministry of Corporate Affairs (MCA) in July 2011, is essentially a set of nine principles that offer Indian businesses an understanding and approach to inculcate responsible business conduct. These nine principles are :

- i) conduct and govern themselves with ethics, transparency and accountability.
- ii) provide goods and services that are safe and that contribute to sustainability throughout their life cycle.
- iii) promote the well-being of all employees.
- iv) respect the interests of, and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalized.
- v) respect and promote human rights.
- vi) protect and make efforts to restore the environment.
- vii) when engaged in influencing public and regulatory policy, they should do so in a responsible manner.
- viii) support inclusive growth and equitable development.
- ix) engage with and provide value to their customers and consumers in a responsible manner.

These guidelines are not prescriptive in nature but seek to advise Indian businesses to take into account Indian social and business realities and the global trends, while promoting their businesses.

1.1.5. Principle (viii) of the NVGs on “inclusive and equitable growth” focuses on encouraging business action on national development priorities, including community development initiatives and strategic CSR based on the shared value concept. This principle of NVG was subsequently translated into a mandatory provision of Corporate Social Responsibility in Section 135 of the Companies Act 2013.

1.1.6 Section 135 of the Companies Act, 2013 contains CSR provisions, Schedule VII of the Act enumerates the activities that can be undertaken under CSR and Companies (CSR Policy) Rules, 2014 prescribe the manner in which the companies can undertake their CSR projects/ programs/ activities. Section 135, amended Schedule VII and Companies (Corporate Social Responsibility Policy) Rules, 2014 were notified on 27th February, 2014 and came into force from 1st April, 2014. Section 135, Schedule VII, and Companies (CSR Policy) Rules are placed at Annexures I, II and III respectively.

1.1.7 NVGs are much wider in scope than provisions of CSR under the legislation, and remain the guiding principles for corporates to conduct their normal business in a socially responsible and environmentally sustainable manner. CSR Rules , on the other hand, prescribe corporates to undertake CSR activities beyond their normal course of business.

1.2. The Context:

1.2.1 The financial year 2014-15 was the first year of implementation of CSR under the legislation. Since the commencement of this provision of law, there are genuine concerns about an altogether new piece of legislation in India and for which there is also no parallel elsewhere in the world. Many questions are being raised by various stakeholders including professionals, industry representatives, media, policy makers, civil society and peoples’ representatives regarding the level of compliance by companies, amount spent/ activities undertaken/ geographical area covered under companies’ respective CSR

policies. The queries range from quality and efficacy of CSR expenditure by companies to institutional mechanism for monitoring implementation of CSR by the Companies.

1.2.2. With this backdrop, the Ministry of Corporate Affairs constituted a High Level Committee (HLC) under the Chairmanship of Shri Anil Bajjal, former Secretary, Government of India, to suggest measures for monitoring the progress of implementation of Corporate Social Responsibility policies by companies at their level and by the Government under the provisions of Section 135 of the Companies Act, 2013 and Rules made thereunder with the following Terms of Reference:-

- i. To recommend suitable methodologies for monitoring compliance of the provisions of Section 135 (Corporate Social Responsibility) of the Companies Act, 2013 by the companies covered thereunder.
- ii. To suggest measures to be recommended by the Government for adoption by the companies for systematic monitoring and evaluation of their own CSR initiatives.
- iii. To identify strategies for monitoring and evaluation of CSR initiatives through expert agencies and institutions to facilitate adequate feedback to the Government with regard to efficacy of CSR expenditure and quality of compliance by the companies.
- iv. To examine if a different monitoring mechanism is warranted for Government Companies undertaking CSR, and if so to make suitable recommendations in this behalf.
- v. Any other matter incidental to the above or connected thereto.

1.2.3. The composition of the High Level Committee (herein after referred to as the Committee) is as under:

Sr.	Name	Role
i.	Shri Anil Baijal Former Secretary to Govt. of India	Chairperson
ii.	Prof. Deepak Nayyar Emeritus Professor of Economics, Jawaharlal Nehru University, New Delhi	Member
iii.	Shri Onkar S Kanwar Chairman & Managing Director, Apollo Tyres Ltd.	Member
iv.	Shri Kiran Karnik Former President – NASSCOM, New Delhi	Member
v.	Secretary, Department of Public Enterprises (Represented by an officer not below the rank of Joint Secretary)	Member
vi.	Additional Secretary(*) Ministry of Corporate Affairs	Member - Convener

(*) Economic Adviser, MCA will discharge the responsibility in the absence of Additional Secretary, MCA.

1.2.4. The Committee was expected to submit its report within 6 months from the date of holding its first meeting. A copy of the office order is at Annexure – IV.

1.3. Approach of the Committee:

1.3.1. Inclusion of Corporate Social Responsibility in the statute is a unique provision of the Company law in India. In order to have a complete understanding of the working, implementation and administration of CSR provision of the Companies Act, 2013 and emerging issues thereunder, the committee adopted a consultative process by inviting views of various stakeholders. The committee met several times over the past six months before finalizing the report.

1.3.2. In its first meeting held on 23rd February, 2015 it was decided to invite various stakeholders representing apex chambers of industries,

Indian Institute of Corporate Affairs (IICA), representatives of civil society, private corporates, government companies, professional institutes etc., to hear their views/comments on issues relating to CSR provisions of the Act, in general, and the TORs of the Committee, in particular.

1.3.3. In second meeting of the Committee, three apex chambers of industries namely, the Federation of Indian Chambers of Commerce and Industry (FICCI), the Associated Chambers of Commerce & Industry of India (ASSOCHAM), the Confederation of Indian Industry (CII), and the Standing Conference of Public Enterprises (SCOPE) participated to present their views. The Indian Institute of Corporate Affairs (IICA) also shared its experience and views regarding implementation of CSR by companies.

1.3.4. In the third meeting, representatives of four Central Public Sector Undertakings (CPSUs) viz., Oil and Natural Gas Corporation Ltd. (ONGC), Engineers India Ltd (EIL), Steel Authority of India Limited (SAIL), and Bharat Heavy Electricals Ltd. (BHEL) deliberated on the subject and shared their experience. The Committee also invited representatives of four Non-Government Organizations (NGOs) viz., Azim Premji Foundation, Help Age India Foundation, Smile Foundation and Business & Community Foundation to listen to their views.

1.3.5. Consultations with private sector companies were the focus of the fourth meeting of the Committee. For selecting firms/companies from the private sector to be invited for discussion, the following criteria were adopted:

(a) Among large companies, the Committee decided to invite one each from Northern, Southern, Eastern, and Western regions of the country, representing different sectors of the economy (the largest company in each region was identified on the basis of its total estimated CSR expenditure based on the filings of past three years with MCA). In order to introduce sectoral

diversity in this selection, it was decided that a couple of companies could be added to this list, should it become necessary from: (a) the northern and (b) southern regions. Based on these criteria Reliance Industries Limited, Tata Steel Limited, Infosys Limited, Bharti Airtel Limited, ITC Limited and Maruti Suzuki Limited were invited.

(b) In the case of small and medium enterprises (SMEs), it was decided to invite two Companies - one each with the highest and lowest turnovers. It needs to be said that it was difficult to identify companies under this category, since the Companies Act does not define SMEs. Becton Dicknson India Private Limited and India Exposition Mart Limited were invited in this category, from a list of SMEs shortlisted in consultation with FICCI.

1.3.6. The Committee also interacted with the representatives of Professional Institutes like the Institute of Chartered Accountants of India (ICAI) & the Institute of Company Secretaries of India (ICSI), which have an important role to play in ensuring compliance by the companies of various provisions of Companies Act including that of CSR.

Chapter II

Discussion on Terms of Reference

2.1. This Chapter examines each of the Terms of Reference (ToRs) of the High Level Committee in terms of legal provisions, existing institutional mechanisms for administering the provisions and ensuring compliances, and the feasibility or the desirability of setting up any additional monitoring mechanism.

2.2. TOR-1: Methodologies for monitoring compliance of the provisions of Section 135 (CSR) by the companies covered thereunder.

2.2.1 The 21st Report of the Parliamentary Standing Committee on Finance is one of the prime movers for bringing the CSR provisions within the statute. It was observed by the Standing Committee, that annual statutory disclosures on CSR required to be made by the companies under the Act would be a sufficient check on non-compliance. Section 135(4) of the Companies Act 2013 mandates every company qualifying under Section 135(1) to make a statutory disclosure of CSR in its Annual Report of the Board. Rule 9 of the Companies (Corporate Social Responsibility Policy), Rules, 2014 prescribes the format in which such disclosure is to be made.

2.2.2. It is understood that details of CSR expenditure, CSR activities undertaken, geographical area covered, and other specified particulars are to be filed online by the company in the prescribed format. The e-form (AOC - 4), that is designed for e-filing of Annual Financial Statements by the companies, has all the relevant fields in-built to capture details of CSR expenditure by companies. This e-form has been notified by the Ministry of Corporate Affairs.

2.2.3. It is understood that a list of CSR compliant companies will be available with the Government after statutory filings are made by companies. Since the statutory returns are filed online by each company and the information

contained in those filings get stored in the MCA 21¹ repository, it should be possible for the Ministry of Corporate Affairs to extract the list of companies, which have complied with the provisions of the Act. It would also be possible for the said Ministry to compile company wise details of CSR expenditure including economic activities undertaken, geographical area covered under its CSR programme/policy.

2.2.4. The Committee deliberated on the necessity for collation and compilation of such information by the Ministry of Corporate Affairs. This information is also required to be placed in the public domain. Placing the data on CSR in open domain can facilitate research and provide useful feedback for policy formulation. This can also take care of innumerable stakeholders' queries including those pertaining to RTI applications, Parliamentary Questions related to macro level analysis or unit level company wise information on CSR.

2.2.5. It was stated before the Committee that it is pre-mature to assess the issues of non-compliance at this stage, since the first ever filings have yet to come out.

2.2.6. It was suggested to the Committee that initial 2/3 years of roll out of CSR programme are going to be 'a learning period' for all the stakeholders. Therefore action should not be taken against companies on the ground of non-compliance of CSR provisions of the Act, at least for the initial two to three years. The Committee decided to deliberate on this suggestion carefully at least for the companies which marginally come under the mandatory CSR obligation, as provided under Section 135(1) of the Act.

¹ MCA-21 is the e-governance initiative of the Ministry of Corporate Affairs which enables delivering of all MCA services online.

2.3. TOR-2: to suggest measures to be recommended by the government for adoption by the companies for systematic monitoring of their own CSR initiatives.

2.3.1. Sub-section (3) and (4) of Section 135 of the Act make the Board of the Company and its CSR Committee responsible for monitoring the CSR activity undertaken by the company. Thus the Board of a company is both responsible and accountable for its CSR policy. Further, Rule (4) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 requires the companies to undertake CSR activity in project/ programme mode, either directly or through implementing agencies. Activities undertaken in a project/programme mode should, as such, be subjected to both monitoring and evaluation as an integral part of the project design.

2.3.2. During the consultations with the stakeholders in the successive meetings of the Committee, it was emphasized that the existing provisions in the Act are sufficient. In this connection, the Committee also took note of the observations of the Parliamentary Standing Committee on Finance (in its 21st Report), to the effect that the existing provisions of the Act / Rules of annual statutory disclosures should be a sufficient safeguard against noncompliance.

2.3.3. Implementation of CSR activities in the programme / project mode by companies was discussed at length. It was mentioned by some Industry Associations that while project mode of implementation is not an issue for large companies with sufficient CSR funds, smaller companies with small amounts to be spent on CSR might find it difficult to implement CSR policy in a programme mode and therefore, monitoring of the same by adopting pre-defined methodologies could be difficult, almost impossible. .

2.4. ToR-3: Monitoring and evaluation of CSR projects/activities through expert agencies for selected companies.

2.4.1. Most of the stakeholders expressed the view that the mandatory provision for annual disclosure of CSR expenditure by companies is envisaged to be sufficient to ensure compliance of CSR provisions under the legislation. However, the Committee also took note of the view that intensity of public scrutiny would often focus on monitoring/assessment of quality and efficacy of CSR expenditure by the companies.

2.4.2. The Committee discussed at length the provisions of the law in respect of monitoring of CSR programmes / projects / activities undertaken by the companies. Once a company qualifies under Section 135 (1), it must make a disclosure regarding CSR Policy and CSR expenditure of the company in the format prescribed under Rule(8) and (9) of 'Companies (Corporate Social Responsibility Policy) Rules, 2014'. With this the company is considered CSR compliant under the Act. Explanation, duly approved by the Board of the Company for shortfall, if any, in the CSR expenditure vis-à-vis the mandatory 2% of the average net profits, has to be placed in the public domain.

2.4.3. It was observed that the existing provisions of the law do not empower the Government to go beyond this. Monitoring of efficacy and quality of CSR expenditure by the companies through impact evaluation/ assessment could be the responsibility of the company itself (through the Board and its CSR Committee) as explained in the previous section of this Chapter. It was argued before the Committee that the Board of Directors and Management are accountable to shareholders for the effective utilization of all their resources, of which CSR spend is a mere 2% of net profits. A more stringent mechanism for CSR spend, therefore, may not be desirable

2.4.4. During the deliberations, most companies and apex chambers emphasised that the present provisions are sufficient. An external monitoring

agency is neither required nor desirable, as the companies are internally capable to undertake the exercise. However, civil society representatives and professional bodies such as ICAI and ICSI argued in favour of monitoring of CSR project by external agencies with a view to assess the quality and impact of CSR expenditure.

2.5. ToR-4: Monitoring of CSR undertaken by Government Companies

2.5.1. Central Public Sector Undertakings had been carrying out CSR activities under DPE guidelines since 2010. Under these guidelines, each profit making CPSU was mandated to spend certain percentage of Profit after Tax (PAT) on CSR. However after legislation of the Companies Act, 2013, all companies (including PSUs) above a certain threshold as defined in Section 135 (1) of the Companies Act, 2013 are required to formulate their CSR policies and spend at least 2% of their average net profit in preceding three financial years on CSR. DPE has since issued fresh guidelines on 'CSR and sustainability for the CPSUs' which is in conformity with the CSR provisions of the Companies Act. These guidelines are possibly more stringent in respect of eligibility criteria. For example, whereas in the Companies Act the eligibility criteria is defined in terms of the turnover of Rs. one thousand crore or more; or net worth of Rs. five hundred crore or more; and net profit of Rs. five crore or more, the DPE guidelines mandate all profit making companies to undertake CSR irrespective of threshold levels. The Committee Members discussed the issue why there should not be a level playing ground for all the companies including CPSUs. Companies, irrespective of their ownership, could be treated at par in the implementation of CSR provisions of the Companies Act and Rules.

2.5.2. Both CPSUs and SLPEs are covered under the Companies Act. Each of the companies qualifying under Section 135 (1) is required to comply with the provisions. DPE guidelines pertain only to CPSUs and do not specify any monitoring mechanism to be adopted centrally. However, under the MoU

signed between CPSUs and the Administrative Ministry, 3% weightage is given for CSR compliance, while evaluating the performance of the CPSUs. For non-compliance of the CSR provisions, there is a negative marking of one percent.

2.5.3. While monitoring the CSR is the primary responsibility of the company and not of the Government as per provisions of the Companies Act, the position in case of PSUs is somewhat different, because in their case Government is the promoter and owner of the company and would therefore require to be apprised of the efficacy and quality of CSR.

2.5.4. It is worth mentioning here that CSR policies and CSR expenditure of CPSUs are subject to the audit of the Comptroller & Auditor General (C&AG) of India, and in the past C&AGs have made observations on substantial shortfalls in expenditure vis-à-vis allocation of CSR fund by CPSUs. In addition, Parliamentary Committee on Public Undertakings (COPU) also undertakes horizontal studies on CSR by CPSUs. In a study undertaken by COPU in 2012, significant gap between CSR budget and CSR expenditure of selected CPSUs was observed.

2.5.5. Members of the Committee felt that the existing mechanism of CAG audit as well as study by COPU seems to be sufficient to monitor CSR implementation by CPSUs. Further, the practice of signing MoU between CPSUs and the administrative Ministry is expected to put in place some monitoring mechanism, if required.

2.6 (ToR-5): Any other item.

2.6.1 The Committee considered, and reflected upon, some relevant issues that are not explicitly recognized or stated in the Terms of Reference. In fact, the unstated matters could be just as important as the specified ToRs, particularly so because CSR activities are for social benefit and in the nature of public good. Therefore, the Committee adopted a holistic approach in discussing issues in the context of Acts and rules. Societal needs keep evolving over time. Similarly people's need and social priorities are bound to change

over time. Accordingly, CSR policy and provisions of law have also to remain in a dynamic mode in keeping with the objectives of this part of the legislation. Therefore, issues requiring change in Law of CSR were also taken up for discussion, and are compiled in Chapter-III.

Chapter III

Issues relating to CSR provisions of the Act

3.1 Introduction

After reflecting on its Terms of Reference (ToR) and listening to the stakeholders, the Committee identified some issues arising out of the provisions of Corporate Social Responsibility in the Companies Act and Rules. These may not have any direct implication for monitoring the compliance of CSR, but would facilitate implementation of CSR by companies, by removing difficulties, ambiguities and complexities of the law.

3.2. Complexity of procedures:

3.2.1. During the discussions it was pointed out that under the Companies Act, 2013, companies are required to fulfill several statutory compliances including a large number of disclosures. These are in addition to the compliance requirements under other laws of the land. Further obligations through a new provision for monitoring quality of compliance of CSR activities could absorb valuable time of companies and diminish the 'ease of doing business'. The rationale underlying the CSR provisions of the Act is not monitoring or surveillance of companies in this sphere, but facilitating CSR activities of companies through self-regulation in accordance with the spirit of the Act and the Rules.

3.2.2. The first year (2014-15) of CSR implementation under the Companies Act 2013 has just concluded. The companies are yet to file their Annual Returns including Board's Reports and Annual Returns on CSR. Filings are due after September, 2015. The months of October and November are usually the peak filing months. Therefore, the very first report on a number of CSR compliant companies and details thereof would be available with the Ministry of Corporate Affairs only in December, 2015. A proper analysis of this information would be possible only thereafter. In the absence of any such

information, it is difficult to assess the level and dimensions of CSR compliance by companies and monitoring thereof.

3.2.3. Some stakeholders have suggested that present monitoring mechanism prescribed under the statute/law is sufficient. However, some felt that the Government may provide some broad guidelines on the implementation of CSR provisions with an emphasis on voluntary disclosures. Almost all companies/foundations, which shared their views, with the Committee, emphasized on outcome and impact led rather than expenditure driven approach to implementation of CSR.

3.2.4. During the discussions it was flagged that companies should be given a chance to learn from their experiences. At present the companies are at various phases of the learning curve with regard to their CSR policy, programmes and activities. Companies should be provided some grace period for capacity building in this field.

3.3. Scope of CSR activities

3.3.1. The permissible CSR activities enlisted in Schedule VII of the Companies Act are consistent with national priorities of sustainable and inclusive development. Development priorities are dynamic in nature and evolve over a period of time. In this context, advantages / disadvantages of overly prescriptive list of permissible activities under CSR as enumerated at Schedule VII were deliberated extensively by the Committee.

3.3.2. Liberal interpretation of the activities enlisted in Scheduled VII, as indicated in the General Circular issued by the Ministry on 18.06.2014 also came up for discussion. While such flexibility is welcome, it was argued by stakeholders that in the absence of defined beneficiaries to be covered under CSR policies of companies, funds could be directed to benefit the less deserving. Such allocations of CSR expenditure could discriminate against the needy and deserving ones, thus distorting the spirit and essence of CSR. A

view was expressed during the deliberations that CSR activities must be for larger public goods, preferably for underprivileged population.

3.3.3. Further, it was observed that there is persistent pressure on the Ministry of Corporate Affairs from various quarters to expand the list by including many more activities. Schedule VII has been amended three times after initial notification to accommodate such requests. The view that generally emerged in the deliberations of the Committee was to incorporate as far as possible all the public goods in the list of permissible activities and provide an omnibus clause to cover those that are left out.

3.4. Specifications

3.4.1. CSR Rules prescribe a ceiling on administrative costs/ overheads expenditure incurred by the company in the planning and implementation of CSR activities at 5% of the total CSR spend of the company. Most of the stakeholders participating in the deliberations of HLC felt that this 5% cap is insufficient to manage the administrative overhead costs of the company on CSR activities. With specific reference to smaller companies, their suggestion was to increase this cap to 10-15 percent.

3.4.2 The suggestion for increasing the cap on administrative overhead expenditure of companies under CSR from the present provision of 5% of total CSR expenditure was discussed at length. The Committee members, other than the representative of Department of Public Enterprises (DPE), were of the view that cap could be increased from 5 percent to 10 percent of the CSR expenditure. DPE's representative was, however convinced that the 5% cap is sufficient. In his view, if the programme is designed well, it will deliver the desired public good even with less than 5% administrative overhead costs. Taking on record this observation of DPE, other members of the Committee concluded that the ceiling of administrative overhead costs should be increased from the present 5% to 10 % of the CSR expenditure of the Company. This

would require appropriate amendments to the relevant provisions of the Act / Rules.

3.4.3. It was felt that there is lack of clarity as to whether this ceiling of overhead costs applies to the costs incurred by the company or it also includes the cost of the implementing agencies. Clarity is required in this regard, if necessary by amending the Act / Rules. The Committee felt that administrative overhead expenditure of the Company on CSR should not include expenditure incurred on capacity building of the implementation agencies.

3.5. Scale of operation of companies.

3.5.1. Smaller companies may not be able to follow all the requirements prescribed for the implementation of CSR provisions such as undertaking CSR in project/programme mode; need and impact assessment of CSR programme or projects, undertaking sustainable CSR projects etc. The Committee debated as to whether to relax some of these conditionalities for smaller companies. One possibility was to categorise the corporate entities into two groups - (i) those with less than Rs. 5 crore spend per annum on CSR; and (ii) others with CSR budget of Rs. 5 crore or more. While companies with CSR budget of Rs. 5 crore or more could be mandated to follow all the procedures / conditions laid down in the Act and Rules, those with less than Rs. 5 crore of CSR budget, need not take CSR programme in project/programme mode. Smaller companies could be allowed to take up any programme / activity covered under omnibus provision of "Public Purpose". Pooling of CSR funds of companies with less than Rs. 5 crore could also be another possibility.

3.6. Tax Provisions/treatment.

3.6.1. No tax benefits are prescribed under the Income Tax Act, 1961 for expenditure incurred by companies towards Corporate Social Responsibility as clarified by the Finance Act, 2014. However, companies' spend on several activities like rural development, skill development, agricultural extension

projects; contribution to Prime Minister's National Relief Fund etc., finds place in Schedule VII of the Companies Act, 2013, which may qualify for tax exemptions under relevant provisions of the Income Tax Act, 1961, subject to fulfillment of any other specified conditions. (Annexure-V)

3.6.2. Contribution to Prime Minister's National Relief Fund (PMNRF) by companies as a part of their CSR expenditure would also get tax exemptions under Section 80 G of the Income Tax Act. The following issues were discussed in this context:

- (i) Public Sector Undertakings (PSUs) are not allowed to contribute to PMNRF, whereas Private Sector companies are permitted to contribute. Such contribution will also be eligible for tax exemption under the Income Tax Act.
- (ii) Contribution to PMNRF would also not attract any compliance issues.

Therefore, there could be a temptation on the part of companies to direct at least a part and possibly a substantial part of their CSR budget to PMNRF to avail this double benefit.

3.6.3. The Committee felt that contribution to PMNRF as part of CSR would not be keeping with the spirit of Section 135 of the Act. The intent of the Act is to inculcate a sense of involvement and responsibility in the corporate sector for social development by utilizing not just their funds, but also their capabilities and managerial skills. The tax benefit for contributions of CSR funds to PMNRF may turn out to be a regressive incentive.

3.6.4. The Committee also observed that allocation of CSR fund across development sectors may be distorted in absence of uniformity in tax treatment for CSR expenditures on all the eligible activities.

3.6.5. It was mentioned before the Committee that outsourcing of CSR activities to Implementing Agencies attracts payment of Service Tax, whereas if

the company enters into a Memorandum of Understanding with the Implementing Agency, the contribution made is treated as grant, and, therefore, not liable for payment of Service Tax. This perceived anomaly is required to be examined and corrected.

3.7. Clarity regarding Carry forward of Unspent Balance

3.7.1. Section 135(5) of the Act mandates the Boards of the CSR eligible companies to ensure that at least 2% of the average Net Profit during the preceding three financial years is spent on approved CSR projects/programmes. The proviso to this sub-section suggests that the Board has to explain the reason(s) for not spending this amount, if there is any shortfall in the CSR expenditure vis-à-vis the 2% requirement. The issue brought to the notice of the Committee is what would happen, if funds allocated for CSR are not fully spent within the financial year, particularly when CSR spend is in a programme or project mode (which could have long gestation periods).

3.7.2. In the statute, there is no mention of 'carry forward' of the unspent amount to the next year. However, 'DPE guidelines on CSR and Sustainability' mandate each profit making PSU to undertake CSR activities in line with CSR provision of the Companies Act, and further in case any amount is lying unspent with a company, the same has to be necessarily carried forward to the next year to be spent on CSR activities over and above 2% of the Net Profit required to be spent in the subsequent year.

3.7.3. The Committee examined this matter to take a view on whether "carry forward" provision for unspent balances of CSR funds as applicable to government companies should be extended to non-government companies as well. Clarification to this effect is required to be issued.

3.8. Applicability of CSR provisions to Section 8 companies

3.8.1. Section 8 companies are 'not for profit' companies registered under Section 8 of the Companies Act, 2013 (Section 25 of Companies Act 1956) with the basic object of working in social and developmental sector. Their involvement in charitable and philanthropic activities is already 100%.

3.8.2. These companies prepare income and expenditure statements which reflect the surplus/deficit of an organization and not the profit of the company. The surplus accrued to such company is not distributed amongst members, but is ploughed back to the expenditure of the company, that in-turn is spent on social welfare activities already included in Schedule VII. Therefore, it may be not necessary for these companies to undertake CSR activities outside the ambit of their normal course of business. The Committee also discussed whether CSR provisions should at all be applicable to Section 8 companies.

3.9. Foreign companies

3.9.1 All the provisions of the Companies Act are applicable to companies incorporated under the Companies Act, 2013 or any other previous company law applicable in India. Foreign companies are defined as either branch office or project office or liaison office of a company incorporated outside India. Therefore, a view was expressed that Section 135 should not be applicable to foreign companies. Many problems were highlighted during the discussions – (a) CSR is not mandated by their home country laws; and (b) Board of Directors of such a company is not likely to be located in India. As such supervision of implementation and ensuring compliance of the policy may not be feasible for their Board of Directors / CSR Committees. There would be serious challenges in the implementation of CSR programmes by foreign companies.

The Committee felt that there is a need for further examination of this issue.

3.10. Entities created by specific Statutes

3.10.1 A number of profit making listed entities are not incorporated under the Company Law. These operate under specific statutes enacted by the Parliament. Some of these may not be covered under the CSR guidelines of DPE. CSR provisions should be made applicable to them too on mutatis mutandis basis – either through amendments in their respective Statutes or as a mandatory condition under the listing agreement of SEBI.

3.11 Computation of Net Profit

3.11.1. Under Section 135(1) of the Companies Act, 2013, 'net profit' is one of the qualifying criteria for covering companies under the CSR provision of the Act. Section 135 (5) mandates that 2% of the average net profit of preceding three financial years, has to be spent on CSR by the companies. The Explanation to Section 135 requires "average net profit" to be computed as per Section 198 for the purposes of Section 135. 'Net profit' as per Section 198 is primarily 'Profit before Tax' (PBT).

3.11.2. Rule 2 (1) (f) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, defines "Net profit" as *"the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act....."*, [i.e. section 129 read with Schedule III of the Act]. However, neither Section 129 nor Schedule III of the Act makes any mention of the word 'net profit'.

3.11.3. It is implied therefore, that 'net profit' for the purposes of both sub-Section (1) and (5) of section 135 is computed as per Section 198; and rule 2 (1) (f) of the CSR Policy Rules needs to be read in conjunction with this statutory explanation provided at the end of Section 135 of the Act.

3.11.4. Rule 2(1)(f) as it stands now, seems to give an impression to the accounting professionals that Section 198 is not attracted for computing 'net profit' of Indian companies for the purposes of Section 135 (1) of the Act. It is

particularly because second proviso to the same rule explicitly states applicability of Section 198 for foreign companies.

3.11.5. It is considered necessary to issue clarifications regarding the definition of Net Profit under Section 135(1) and Section 135(5).

3.12. Interpretation of 'any financial year'

3.12.1. Section 135 (1) reads "Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director".

3.12.2. It is not clear as to whether any financial year refers to any year since the incorporation of company or to preceding financial year or to the same year in which CSR is to be implemented by the company.

3.12.3. Rules 3(2) of the Companies (CSR Policy) Rules, 2014, reads "Every company which ceases to be a company covered under sub-section (1) of Section 135 of the Act for three consecutive financial years shall not be required to – (a) Constitute a CSR Committee; and (b) Comply with the provisions contained in sub-section (2) to (5) of the said section, till such time it meets that criteria specified in sub-section (1) of section 135.

3.12.4. General Circular No 21/2014 Dated the 18th June, 2014, issued by the Ministry of Corporate Affairs, clarifies this by stating that Section 135(1) of the Act read with rule 3(2) implies that any financial year refers to any of the three preceding financial years. This clarification does not seem sufficient since this brings in retrospective application of the Act, because Act came into force only from April, 2014. This might be construed as 'Rule exceeding the provisions of the Act'. The Committee is of the opinion that this should be

examined by the Ministry of Corporate Affairs and necessary amendment, if any, be made in either section 135(1) or in the relevant rule.

3.13. Distribution of goods and services manufactured/rendered by companies as part of their CSR spent and monetization thereof

3.13.1 A majority of stakeholders argued for considering contribution made in kind or in the form of service as a part of CSR expenditure after proper monetization. Some companies mentioned that services rendered by their employees are more effective than work got done through the civil society organizations.

3.13.2. The Committee observed that there is no clarity in this regard as some stakeholders are of the view that contribution to CSR should not be permitted in kind and services because (a) corporates may take this as a clandestine route to avoid / circumvent their CSR mandate; (b) Corporates may distribute their rejected / sub-standard or unsold products close to the date of expiry; (c) IT companies and others may distribute obsolete and used hardware or software; (d) There can be demand supply mismatch, particularly in case of medicines; (e) Mere distribution of goods may not be termed as CSR activities (this needs to be integrated into a project or program); (f) this arrangement will circumvent the 'normal course of business' rule; and (g) valuation of such activities could always create a problem, in spite of accounting guidance note issued by ICAI.

3.13.3 A strong view was expressed before the Committee that services rendered by company employees in the implementation of CSR initiatives of the company should be monetized and counted towards CSR spend of the company. After detailed deliberations the Committee felt that ideally employees' contribution to CSR activities should be monetized and counted towards CSR spend of the company. Contribution and involvement of employees in CSR activities will generate interest / pride in them in company's CSR work and

promote transformation from just complying with Corporate Social Responsibility (CSR) to making them as Socially Responsible Corporates (SRC). However, in practice, this might not be feasible as it could become subjective, if not arbitrary in allocating cost of the employees' time spent on CSR activities of the company.

3.14. Implementing Agencies

3.14.1. At present there is no list of credible implementing agencies (IAs) to undertake CSR activities on behalf of the companies. Nor is there any standard template of contract / MoUs between the implementing agency and the donor company.

3.14.2. Some stakeholders therefore suggested that MCA should help in (i) preparation of data bank of credible CSR implementing agencies; (ii) development of some clear-cut MOUs between companies and Implementing Agencies for efficient implementation of CSR activities; and (iii) disqualifying such of the Implementing Agencies as are found involved in frauds. The Committee on the other hand felt that since the companies are in any case availing services of vendors and implementing agencies in respect of their main businesses, they would have acquired the requisite capacity and expertise to carry out due diligence in this regard also. There seems to be no need of hand holding in this regard by the Government. The Committee, therefore, felt that Government cannot and should not maintain such a panel or list. Undertaking due diligence of these implementing agencies should be left to the Boards and their CSR committees.

Chapter - IV

Summary of Recommendations

4.1 The High Level Committee appreciated the rationale and objective of the mandatory CSR provisions under the legislation and decided to examine the entire issue of implementation and monitoring of these provisions of the Act in the background and true spirit, rather than the letter, of this piece of legislation. Keeping in view the intent of the law, the Committee is convinced that the main thrust and spirit of the law is not to monitor but to generate conducive environment for enabling the corporates to conduct themselves in a socially responsible manner, while contributing towards human development goals of the country.

4.2. The rationale behind CSR legislation is not to generate financial resources for social and human development since the resource gap, if any, for such development or social infrastructure, could as well have been met by levying additional taxes/cess on these corporates. The objective of this provision is indeed to involve the corporates in discharging their social responsibility with their innovative ideas and management skills and with greater efficiency and better outcomes. Therefore, CSR should not be interpreted as a source of financing the gaps in inclusive growth. Use of corporate innovations and management skills in the delivery of 'public goods' is at the core of CSR implementation by the companies.

4.3. It is for the first time anywhere in the world that CSR finds a place in the statute book. Both the government and corporates are going through a learning experience. The first ever statutory annual reports of

CSR are yet to be filed by the companies along with their annual returns mostly through the months of October and November. All the information relating to the implementation of CSR by the companies is expected to be available by the end of the year 2015. This information should form the basis for making any assessment of qualitative and quantitative aspects of CSR implementation. Therefore, some Committee Members are of the view that the constitution of this Committee is a little premature. The first couple of years would appropriately be a '*learning experience*' for all stakeholders including the companies, implementing agencies, auditors etc. It would be desirable to conduct a review of the programme, after three years.

4.4. The Committee is, *prima facie*, of the view that the existing provisions of the Act and Rules based on general principles of "comply or explain" are for the time being sufficient for ensuring compliance of the law. This view has also been taken by the Parliamentary Standing Committee on Finance in its 21st Report. In any case, Boards / CSR Committees are fully competent to engage third parties to validate compliance of the CSR provisions of the law.

4.5. Schedule VII of the Companies Act 2013, has been amended three times since its first notification on 27th February 2014, with a view to expand the list of eligible CSR activities. The Committee recommends inclusion of an omnibus clause simply because certain development concerns, needs and priorities cannot be anticipated. In any case, CSR activities must be for larger public good and for any activity that serves public purpose and / or promotes the wellbeing of the people, with special attention to the needs of underprivileged.

4.6. The mandatory provision of CSR is likely to generate substantial funds for the benefit of the deserving poor and under-privileged sections of society. To ensure that this opportunity is not frittered away by thinly spreading the resources so generated; and that only sustainable programmes / projects are taken up for optimal benefits of the poor and

under-privileged sections of the society, the Committee strongly feels that there is a need to ring-fence the companies' CSR resources so that this objective is not defeated. This has to be ensured by CSR Committees / Boards. Therefore, all CSR programmes / projects should be approved by the Boards on the recommendations of their CSR Committees. Changes, if any, in the programme / project should also be undertaken only with the approval of the Committee / Board. The provisions of the law / rules should be strengthened, wherever necessary, to ensure this.

4.7. As regards penalty for non-compliance with CSR provisions of the Companies Act, the present provisions in the law appear to be sufficient. However, the Committee is of the view that leniency may be shown against the companies for non-compliance in initial two / three years to enable them to graduate to a culture of compliance. This is being recommended because initial three years will be a "period of learning" for all the stakeholders. This liberal view can at least be taken for smaller companies, which become eligible at the margin to take up CSR programme under Section 135(1) of the Act.

4.8. Differential tax treatment for expenditure on various activities covered under Schedule VII may create unforeseen distortions in the allocation of CSR funds across development sectors. Board's decision could be guided more by tax savings implications rather than compelling community social needs. The Committee therefore feels that there should be uniformity in tax treatment for CSR expenditures across all eligible activities.

4.9. The Committee recommends that there should be two models of implementation strategies for CSR:- (i) for companies that have CSR expenditure of more than Rs. 5 crore ; and (ii) for smaller companies with CSR spend of less than Rs. 5 crore. Companies in the first category are required to undertake programme based sustainable CSR activities, with some

measureable outcomes. Smaller companies could take up project based activities, depending upon their CSR spend from year to year. Such companies should be encouraged to combine their CSR programmes with other similar companies. This suggested threshold of Rs. 5 crore (in CSR expenditure) should be adjusted for inflation, using the GDP deflator or Wholesale Price Index (WPI) once every three years, and this figure should be rounded off to the nearest crore.

4.10. In many cases, time taken in the implementation of CSR activities could be long, leaving unspent amounts at the end of a financial year. This may be allowed to be carried forward and clarification to this effect be issued. CPSUs are already required to carry forward their unspent CSR funds, under DPE guidelines. On the same analogy, private companies must also be permitted to carry forward unspent balance of CSR funds. However, there should be a sunset clause of five years, after which the unspent balance should be transferred to one of the funds listed in Schedule VII.

4.11. The Committee recommends that entities, which are neither incorporated under the Companies Act nor subjected to the mandatory guidelines of DPE, but which otherwise fall within the criteria of mandatory CSR obligations as laid down in the Companies Act, should be brought under similar provisions on a mutatis mutandis basis, through listing conditions of SEBI or suitable amendments to their respective Statutes.

4.12. The Committee concluded that the ceiling on administrative overhead costs should be increased from the present 5% to not more than 10% of the CSR expenditure of the Company, for which amendment to the Companies Act and / or CSR Policy Rules, 2014 would be required. However, DPE's representative expressed his dissent on the ground that 5% cap is sufficient, if projects are well designed.

- 4.13.** The Committee also felt that administrative overhead expenditure of the company on CSR should not include expenditure incurred on capacity building of the implementation agencies.
- 4.14.** The Committee feels that the CSR provisions should not be applicable to Section 8 companies.
- 4.15.** There is a need for further clarity on applicability of Section 135 of the Act to foreign companies.
- 4.16.** It is necessary to clarify the definition of the term 'Net Profit' used under Section 135 (1) and Section 135 (5) of the Act and Rule 2(f) of Companies (CSR Policy) rules, 2014, by making necessary amendments to Section 135 of the Act and the Rules thereunder.
- 4.17.** Reference to 'any financial year' in Section 135(1) of the Act, needs to be re-examined by the Ministry of Corporate Affairs with a view to making necessary amendment(s) either in Section 135(1) or in the relevant rule.
- 4.18.** Contribution and involvement of employees in CSR activities of the company will no doubt generate interest / pride in CSR work and promote transformation from Corporate Social Responsibility (CSR) as an obligation to Socially Responsible Corporate (SRC) in all aspects of their functioning. The Committee, therefore, encourages companies to involve their employees in its CSR activities. However, since it will create rather than solve problems, the Committee has decided not to recommend monetization of the services of corporate employees for counting towards CSR expenditure of the Company.
- 4.19.** The Committee strongly feels that Government cannot and should not maintain a databank of implementing agencies for undertaking CSR activities of companies. Instead, this task of undertaking due diligence of implementing

agencies should squarely remain the responsibility of the Board / CSR Committee.

4.20. The Committee feels that all information relating to implementation of CSR by companies including amount spent, activities undertaken, geographical areas covered etc., as reported by the Companies in their annual disclosure need to be compiled by the Ministry of Corporate Affairs and placed in the public domain.

4.21. As regards devising pre-defined methodologies for adoption by companies for systematic monitoring of their own CSR, the Committee feels that Boards and CSR Committee, being accountable to their own shareholders and public at large, should be managing this at their own level. The existing legal provisions like mandatory disclosures, accountability of the CSR Committee and the Board, provisions for audit of the accounts of the company etc., provide sufficient safeguards in this regard.

4.22. The Committee observes that Government should have no role to play in engaging external experts for monitoring the quality and efficacy of CSR expenditure of companies. The Boards / CSR Committees and the management are sufficiently empowered to engage any external firm, if they so require.

4.23. There should be a level playing field for all companies including CPSUs. Companies, irrespective of their ownership, should be treated at par while adhering to CSR provisions of the Companies Act and Rules made thereunder. Members of the Committee felt that the existing mechanism of C&AG audit as well as study by COPU are sufficient to monitor CSR policy of CPSUs. Further, the practice of signing MoU between CPSUs and Administrative Ministry is expected to put in place some monitoring mechanism at the level of Administrative Ministry. Therefore, no additional mechanism for monitoring implementation of CSR by CPSUs is required.

4.24. With a view to incentivizing the corporates to undertake their CSR mandate in right earnest, the Committee recommends setting up of annual awards – one each for the two categories of companies, large and small.

Annexure-I

Section 135 of the Companies Act, 2013

- 1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.
- 2) The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.
- 3) The Corporate Social Responsibility Committee shall,—
 - a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;
 - b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
 - c) monitor the Corporate Social Responsibility Policy of the company from time to time.
- 4) The Board of every company referred to in sub-section (1) shall,—
 - a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and

b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

Explanation. — For the purposes of this section “average net profit” shall be calculated in accordance with the provisions of section 198.

Annexure II

SCHEDULE VII OF THE ACT AND AMENDMENTS MADE THEREUNDER

The indicative activities which can be undertaken by a company under CSR have been specified in Schedule VII of the Act. An amended Schedule VII was notified on 27th February 2014. The Schedule has since been amended three times. The updated list under Schedule VII is provided at below:

- i. eradicating hunger, poverty and malnutrition; ***promoting health care including preventive health care and sanitation including contribution to the 'Swachh Bharat Kosh' set-up by the Central Government for the promotion of sanitation*** and making available safe drinking water;
- ii. Promoting education, including special education and employment enhancing vocational skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;
- iii. promoting gender equality and empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;
- iv. ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water ***including contribution to the 'Clean Ganga Fund' set-up by the Central Government for rejuvenation of river Ganga;***
- v. Protection of national heritage, art and culture including restoration of building and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;

- vi. measures for the benefit of armed forces veterans, war widows and their dependents;
- vii. training to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports;
- viii. contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
- ix. Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
- x. Rural development projects.
- xi. ***Slum area development.***

Explanation- For the purpose of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

Notes:

Item no. (xi) and phrases in ***italics*** under items no. (i) and (iv) have been inserted in Schedule VII of the Act through amendments subsequent to gazette notification on Schedule VII dated 27.02.2014]. Details of the Amendments are given below:

- a). **First amendment** was notified on 31st March, 2014 which included **health care including preventive health care** in item (i) of the Schedule.
- b). **Second amendment** was notified on 6th August, 2014, which inserted "slum area development" as item (xi) in the Schedule.
- c). **Third amendment** was notified on 24th October, 2014. This included (a) "**contribution to Swachh Bharat Kosh** set up by the Central Government for the promotion of sanitation" under "sanitation" in item no. (i) of the Schedule; and (b) "**contribution to Clean Ganga Fund** set up by the Central Government for the rejuvenation of river Ganga" in item (iv) of the Schedule.

Annexure III

COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014:- NOTIFICATION THEREOF

MINISTRY OF CORPORATE AFFAIRS NOTIFICATION

New Delhi, the 27th February, 2014

G.S.R. 129(E).— In exercise of the powers conferred under section 135 and sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely: -

1. Short title and commencement. - (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Rules, 2014.

(2) They shall come into force on the 1st day of April, 2014.

2. Definitions.- (1) In these rules, unless the context otherwise requires, -

(a) "Act" means the Companies Act, 2013;

(b) "Annexure" means the Annexure appended to these rules;

(c) "Corporate Social Responsibility (CSR)" means and includes but is not limited to :-

(i) Projects or programs relating to activities specified in Schedule VII to the Act;

or

(ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.

(d) "CSR Committee" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act.

(e) "CSR Policy" relates to the activities to be undertaken by the company as specified in Schedule VII to the Act and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company;

(f) "Net profit" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely :-

(i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and

(ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:

Provided that net profit in respect of a financial year for which the relevant financial statements were prepared in accordance with the provisions of the Companies Act, 1956, (1 of 1956) shall not be required to be re-calculated in accordance with the provisions of the Act:

Provided further that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of subsection

(1) of section 381 read with section 198 of the Act.

(2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. Corporate Social Responsibility: -

(1) Every company including its holding or subsidiary, and a foreign company defined under clause (42) of section 2 of the Act having its branch office or project office in India, which fulfills the criteria specified in sub-section (1) of section 135 of the Act shall comply with the provisions of section 135 of the Act and these rules:

Provided that net worth, turnover or net profit of a foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of clause (a) of sub-section (1) of section 381 and section 198 of the Act.

(2) Every company which ceases to be a company covered under sub-section (1) of section 135 of the Act for three consecutive financial years shall not be required to -

(a) constitute a CSR Committee; and

(b) comply with the provisions contained in sub-section (2) to (5) of the said section, till such time it meets the criteria specified in sub-section (1) of section 135.

4. CSR Activities.-

(1) The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.

(2) The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through a registered trust or a registered society or a company established by the company or its holding or subsidiary or associate company under section 8 of the Act or otherwise:

Provided that—

(i) if such trust, society or company is not established by the company or its holding or subsidiary or associate company, it shall have an established track record of three years in undertaking similar programs or projects;

(ii) the company has specified the project or programs to be undertaken through these entities, the modalities of utilization of funds on such projects and programs and the monitoring and reporting mechanism.

(3) A company may also collaborate with other companies for undertaking projects or programs or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs in accordance with these rules.

(4) Subject to provisions of sub-section (5) of section 135 of the Act, the CSR projects or programs or activities undertaken in India only shall amount to CSR Expenditure.

(5) The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.

(6) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years but such expenditure shall not exceed five percent of total CSR expenditure of the company in one financial year.

(7) Contribution of any amount directly or indirectly to any political party under section 182 of the Act, shall not be considered as CSR activity.

5. CSR Committees.-

(1) The companies mentioned in the rule 3 shall constitute CSR Committee as under.-

(i) an unlisted public company or a private company covered under sub-section (1) of section 135 which is not required to appoint an independent director pursuant to sub-section (4) of section 149 of the Act, shall have its CSR Committee without such director ;

(ii) a private company having only two directors on its Board shall constitute its CSR Committee with two such directors;

(iii) with respect to a foreign company covered under these rules, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 of the Act and another person shall be nominated by the foreign company.

(2) The CSR Committee shall institute a transparent monitoring mechanism for implementation of the CSR projects or programs or activities undertaken by the company.

6. CSR Policy.-

(1) The CSR Policy of the company shall, inter-alia, include the following, namely:-

(a) a list of CSR projects or programs which a company plans to undertake falling within the purview of the Schedule VII of the Act, specifying modalities of execution of such project or programs and implementation schedules for the same; and

(b) monitoring process of such projects or programs:

Provided that the CSR activities does not include the activities undertaken in pursuance of normal course of business of a company.

Provided further that the Board of Directors shall ensure that activities included by a company in its Corporate Social Responsibility Policy are related to the activities included in Schedule VII of the Act.

(2) The CSR Policy of the company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.

7. CSR Expenditure.- CSR expenditure shall include all expenditure including contribution to corpus, for projects or programs relating to CSR activities approved by the Board on the recommendation of its CSR Committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of Schedule VII of the Act.

8. CSR Reporting.-

(1) The Board's Report of a company covered under these rules pertaining to a financial year commencing on or after the 1st day of April, 2014 shall include an annual report on CSR containing particulars specified in Annexure.

(2) In case of a foreign company, the balance sheet filed under sub-clause (b) of sub-section (1) of section 381 shall contain an Annexure regarding report on CSR.

9. Display of CSR activities on its website. -

The Board of Directors of the company shall, after taking into account the recommendations of CSR Committee, approve the CSR Policy for the company and disclose contents of such policy in its report and the same shall be displayed on the company's website, if any, as per the particulars specified in the Annexure.

[File No. 1/18/2013-CL.V]
RENUKA KUMAR, Jt. Secy.

Annexure to the Rules FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED IN THE BOARD'S REPORT

1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years
4. Prescribed CSR Expenditure (two per cent. of the amount as in item 3 above)
5. Details of CSR spent during the financial year.
 - (a) Total amount to be spent for the financial year;
 - (b) Amount unspent, if any;
 - (c) Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
S.No	CSR project or activity identified.	Sector in Which the Project is covered.	Projects or programs (1) Local area or other (2) Specify the State and district where projects or programs was	Amount outlay (budget) project or programs wise	Amount spent on the projects or programs Sub-heads: (1) Direct Expenditure on projects or programs. (2) Overheads:	Cumulative Expenditure upto to the reporting period.	Amount spent: Direct or through implementing agency

			undertaken.				
1							
2							
3							
	Total						

*Give details of implementing agency:

6. In case the company has failed to spend the two per cent of the average net profit of the last three financial years or any part thereof, the company shall provide the reasons for not spending the amount in its Board report.

7. A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.

Sd/- (Chief Executive Officer or Managing Director or Director)	Sd/- (Chairman CSR Committee)	Sd/- (Person specified under clause (d) of sub-section (1) of section 380 of the Act) (wherever applicable)
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Annexure IV

F.No.05/09/2014-CSR
Government of India
Ministry of Corporate Affairs

General Circular no 01/2015

5th floor, 'A' wing, Shastri Bhawan
Dr. R.P. Road, New Delhi - 110001.
Dated: 03.02.2015

OFFICE MEMORANDUM

Subject: Constitution of a High Level Committee to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013.

Undersigned has been directed to state that a High Level Committee has been constituted under the Chairmanship of Shri Anil Bajjal, Former Secretary, Govt. of India to suggest measures for monitoring the progress of implementation of Corporate Social Responsibility (CSR) policies by companies at their level and by the Government under the provisions of Section 135 of the Companies Act, 2013 and Rules thereunder.

2. The composition of the High Level Committee is as under:

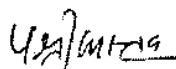
Sr.	Name	Role
i.	Shri Anil Bajjal Former Secretary to Govt. of India	Chairperson
ii.	Prof. Deepak Nayyar Professor (Emeritus), Jawaharlal Nehru University, New Delhi	Member
iii.	Shri Onkar S Kanwar Chairman & Managing Director, Apollo Tyres Ltd.	Member
iv.	Shri Kiran Karnik Former President-NASSCOMM, New Delhi	Member
v.	Secretary, Department of Public Enterprises (Represented by an officer not below the rank of Joint Secretary)	Member
vi.	Additional Secretary (*) Ministry of Corporate Affairs	Member- Convener

(*) Economic Adviser, MCA will discharge the responsibility in the absence of Additional Secretary, MCA.

3. Terms of Reference of the Committee are as under:

- To recommend suitable methodologies for monitoring compliance of the provisions of Section 135 (Corporate Social Responsibility) of the Companies Act, 2013 by the companies covered thereunder.
- To suggest measures to be recommended by the Government for adoption by the companies for systematic monitoring and evaluation of their own CSR initiatives.
- To identify strategies for monitoring and evaluation of CSR initiatives through expert agencies and institutions to facilitate adequate feedback to the Government with regard to efficacy of CSR expenditure and quality of compliance by the companies.

- (iv) To examine if a different monitoring mechanism is warranted for Government Companies undertaking CSR, and if so to make suitable recommendations in this behalf.
 - (v) Any other matter incidental to the above or connected thereto.
4. The Committee shall submit its report within Six months from the date of holding of its first meeting.
 5. Ministry of Corporate Affairs and Indian Institute of Corporate Affairs (IICA) shall jointly provide secretarial and technical support to the Committee. The Indian Institute of Corporate Affairs will render the necessary logistic support to the High Level Committee.
 6. This issues with the approval of Hon'ble Union Minister for Corporate Affairs.


(Dr. Pankaj Srivastava)

Director

Telephone: 011-23389263

E-mail: pankaj.srivastava@gov.in

To

- 1) Shri Anil Buijal, Former Secretary to Govt. of India, New Delhi
- 2) Prof. Deepak Nayyar, Professor (Emeritus), Jawaharlal Nehru University, New Delhi
- 3) Shri Kiran Karnik, Former President (NASSCOMM), New Delhi
- 4) Shri Onkar S Kanwar, Chairman & Managing Director, Apollo Tyres Ltd
- 5) Secretary, DPE, M/o Heavy Industries and Public Enterprises

Copy to:

- 1) DG & CEO, IICA for information and necessary action

Copy for information to:

- 1) PS to Hon'ble Minister of Corporate Affairs
- 2) PPS to Secretary/ PPS to Special Secretary, MCA
- 3) PS to JS(M)/JS (ADM)/JS(BY JS(SP)/EA/DII(NS)/DII(SBG)
- 4) All Regional Directors/ Registrar of Companies, MCA

General Circular No. 13/2015

F. No.05/09/2014-CSR
Government of India
Ministry of Corporate Affairs

5th Floor, A-Wing, Shastri Bhawan
Dr. Rajendra Prasad Road,
New Delhi-110001.
Dated: 16/09/2015

OFFICE MEMORANDUM

Subject: Extension for a period of one month for the High Level Committee on CSR - reg.

A High level Committee was constituted to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013, vide OM of even no. dated 03.02.2015. The Committee has been granted extension of another one month with the approval of Hon'ble Union Minister for Corporate Affairs to submit its report by 22.09.2015.

2. This issues with the approval of Hon'ble Union Minister for Corporate Affairs.


(Seema Rath)
Deputy Director - CSR
Tel: 23384657

To,

1. Shri Anil Bajjal, Former Secretary to Govt. of India, New Delhi.
2. Prof. Deepak Nayyar, Professor (Emeritus), Jawaharlal Nehru University, New Delhi.
3. Shri Kiran Karnik, Former President (NASSCOM), New Delhi.
4. Shri Onkar S Kanwar, Chairman & Managing Director, Apollo Tyres Ltd.
5. Shri Madhukar Gupta, Additional Secretary, Department of Public Enterprises.
6. Shri Pritam Singh, Additional Secretary, Ministry of Corporate Affairs.

Copy for information to:

1. PS to Hon'ble Minister of Corporate Affairs.
2. PPS to Secretary, MCA.
3. PS to JS(M)/JS (B)/ EA/JS (K)/JS (AC)/DII (NS)/DII (AS).
4. All Regional Directors/ Registrar of Companies, MCA.

Annexure V

TAX EXEMPTIONS AND CSR

No tax exemptions have been extended to CSR expenditure per se. Finance Act, 2014 clarifies that expenditure on CSR does not form part of business expenditure. While no specific tax exemption has been extended to expenditure incurred on CSR, spending on several activities like rural development projects, skill development projects, agricultural extension projects and contribution to Prime Minister National Relief Fund etc., which find place in Schedule VII, already enjoy exemptions under different sections of the Income Tax Act, 1961, subject to fulfilment of specified conditions.

The list presented below indicates some of the main provisions under the Income Tax Act, 1961, which provides deductions:

S. No.	Items/ entries as per Schedule VII of the Companies Act	Tax benefits/ deductions available under Income-tax Act, 1961.
(i)	eradicating hunger, poverty and malnutrition; promoting preventive health care and sanitation and making available safe drinking water:	a) Under section 35 AC of the Income-tax Act, 1961 (the 'Act') a deduction is allowed for the expenditure by way of payment to public sector undertakings / local authorities / institutions approved by the National Committee for carrying out any eligible project / scheme for promoting social and economic welfare of or for the upliftment of the public. Deduction is also allowed for direct expenditure by companies on eligible project or scheme undertaking. b) Under section 35CCA a deduction is allowed for expenditure by way of payment to the National Urban Poverty Education

		Fund set up and notified by the Central Government. c) Donations made by companies to any fund set up by a State Government to provide medical relief to the poor are entitled for 100% deduction under section 80 G of the Act. d) Donations made by companies to the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks are entitled for 100% deduction under section 80 G of the Act. e) Donations made by companies to the National Illness Assistance fund are entitled for 100% deduction under section 80 G of the Act.
(ii)	Promoting education, including special education and employment enhancing vocational skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects	(a) Deduction is allowed as per the provisions of section 35AC of the Act, as noted above, in respect of eligible projects / schemes. (b) W. e. f. A.Y. 2013-14, under section 35 CCD of the Act, a weighted deduction of 150% of expenditure incurred by a company on notified skill development project is allowed. (c) Under section 80 G, a deduction is allowed for donation to National Children's fund. The amount of deduction has been raised from 50% to 100% w. r. f A. Y. 2014-15. (d) Donations made by companies to any Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district for the purposes of improvement of primary education in villages and towns in such district and for

		literacy and post literacy activities are entitled for 100% deduction under section 80G of the Act. (e) Donations made by companies to a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf are entitled for 100% deduction under section 80 G of the Act. (f) Donations made by companies to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) are entitled for 100% deduction under section 80 G of the Act. (g) Donations made by companies to the Fund for Technology Development and Application set up by the Central Government are entitled for 100% deduction under section 80 G of the Act.
(iii)	promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for	(a) Deduction is allowed as per the provisions of section 35 AC of the Act, as noted above, in respect of eligible projects / schemes.

	reducing inequalities faced by socially and economically backward groups;	
(iv)	ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water;	(a) Under section 35CCC of the Act, a weighted deduction of 150% is allowed for expenditure on notified agricultural extension projects.
(v)	protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;	(a) Donations made by companies for the renovation or repair of any such temple, mosque, gurdwara, church or other place as is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance or to be a place of public worship or renown throughout any State or States are entitled for 50% deduction under section 80 G of the Act. (b) Donations made by companies to the National Cultural Fund set up by the Central Government are entitled for 100% deduction under section 80 G of the Act.
(vi)	measures for the benefit of armed forces veterans, war widows and their dependents;	(a) Donations made by companies to the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the arms forces of the Union for the welfare of the

		past and present members of such forces or their dependents are entitled for 100% deduction under section 80 G of the Act.
(vii)	training to promote rural sports, nationally recognized sports, paralympic sports and Olympic sports;	(a) Any sum paid by a company as donation to Indian Olympic Associations or to any other association or institution established in India and notified by the Central Govt. for the development of infrastructure for sports and games or the sponsorship of sports and games is eligible for 100% deduction subject to qualifying limit, under section 80 G of the Act. (b) Donations made by companies to the National Sports Fund to be set up by the Central Government are entitled for 100% deduction under section 80 G of the Act.
(viii)	contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;	(a) Donations made by companies to Prime Minister's National Relief Fund and National Foundation for Communal Harmony are entitled for 100% deduction under section 80 G of the Act. (b) Donations made by companies to any corporation established by the Central or any State government specified under section 10(26BB) for promoting interests of the members of a minority community Harmony are entitled for 50% deduction under section 80 G of the Act.
(ix)	Contributions or funds provided to technology	(a) A weighed deduction of 175% is allowed for the amount paid to a research association or to a University, College or other

	incubators located within academic institutions which are approved by the Central Government	institution to be used for scientific under section 35 (1) (ii) of the Act. (b) A weighted deduction of 125% is allowed for the amount paid for undertaking research in social science and statistical research to the above organizations under section 35 (1) (iii) of the Act.
(x)	rural development projects.	(c) Under section 35 CCA of the Act, a deduction is allowed for expenditure by way of payment to an association or institution for carrying out of rural development programmes. This payment can be made to 1) an association or institution, which has as its object the undertaking of any rural development programme approved by the prescribed authority ; 2) an association or institution engaged in training of persons for implementing rural development programmes; 3) National Fund for Rural Development set up by the central Government;

Apart from the above, a deduction of 50% of the amount donated to Government or any approved local authority, institution or association to be utilized for any charitable purpose, which may include above activities, as well as for donations to any other fund or institution engaged in social and charitable activities (Trusts) which have been approved in this regard u/s 80 G (5). Any person, including companies, can avail deductions under this section by making contribution to the entities approved for the section.

10. CONDITIONS TO BE FULFILLED UNDER SECTION 35 AC OF INCOME TAX ACT, 1961.

With a view to encourage business organisations to contribute to or undertake social and economic welfare project for general public, Section 35AC allows deduction for contribution made by an assessee to the eligible project or scheme undertaken by a Public sector company , or local authority or an approved association or institution. It has been further provided that an assessee, being a company, can either make contribution to eligible project or scheme or directly incur expenditure on such scheme.

A. For this purpose, the Central Government had created a National Committee for promotion of social and economic welfare ('the National Committee'). The National Committee approves associations and institutions for the purpose of implementing eligible projects or schemes and recommends the projects and schemes to the Central Government for notification under section 35AC. The project or schemes which are eligible for notification under section 35 AC are to be undertaken for benefit of general public or economically weaker sections of the society and the same are enlisted below:

- (a) construction and maintenance of drinking water project in rural and in urban slums including installation of pump-sets, digging of wells, tube-wells and laying of pipes for supply of drinking water;
- (b) construction of dwelling units for the economically weaker sections;
- (c) construction of school buildings primarily for children belonging to the economically weaker sections of the society;
- (d) establishment and running of non-conventional and renewable source of energy systems;
- (e) construction and maintenance of bridges, public highways and other roads;
- (f) any other programme for uplift of the rural poor or the urban slum dwellers, as the National Committee may consider fit for support;
- (g) promotion of sports;

- (h) pollution control;
- (i) establishment and running of educational institutions in rural areas, exclusively for women and children upto 12 years of age;
- (j) establishment and running of hospital and medical facilities in rural areas, exclusively for women and children upto 12 years of age;
- (k) establishment and running of crèches and schools for the children of workers employed in factories or at building sites;
- (l) encouraging the production of bacteria induced fertilisers;
- (m) any programme that promotes road safety, prevention of accidents and traffic awareness;
- (n) construction of hostel accommodation for women or handicapped individuals or individuals who are of the age of sixty-five years or more;
- (o) establishment and running of institutions for vocational education and training in rural areas or towns which consist of population of less than 5 lakhs;
- (p) establishment and running of institutions imparting education in the field of engineering and medicines in rural areas or towns which consist of population of less than 5 lacks;
- (q) Plantation of softwood on degraded non-forest land;
- (r) any programme of conservation of natural resources or of afforestation;
- (s) Relief and rehabilitation of handicapped individuals;

B. Separate accounts are required to be maintained for the eligible project or schemes. The person undertaking the project or scheme are required to furnish the prescribed report to the National Committee. Further, assessee claiming deduction under section 35AC is required to submit a certificate from the public sector company or local authority undertake king the project or scheme or from a Chartered Account ant in case the project is undertake ken by an approved associations or institution, as the case may be.
